

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7182

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TYRELL DANTE BROWN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Robert G. Doumar, Senior District Judge. (2:00-cr-00094-RGD-2)

Submitted: February 26, 2009

Decided: March 9, 2009

Before MICHAEL, MOTZ, and TRAXLER, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Tyrell Dante Brown, Appellant Pro Se. Fernando Groene, OFFICE OF THE UNITED STATES ATTORNEY, Newport News, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tyrell Dante Brown appeals from the denial of his 18 U.S.C. § 3582(c) (2006) motion for reduction of sentence. On appeal, Brown asserts that he is entitled to a reduction under Amendment 715 of the Sentencing Guidelines, which was effective on May 1, 2008, and may be applied retroactively. See U.S. Sentencing Guidelines Manual § 1B1.10(c) (2008). Although the district court issued its order prior to the effective date of the Amendment, intervening law should, in general, govern cases pending on direct review. Litton Sys. v. American Tel. & Tel. Co., 746 F.2d 168, 173-74 (4th Cir. 1984). Accordingly, we vacate the district court's order and remand for consideration of Brown's motion in light of Amendment 715. We deny Brown's motion for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED